IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.947 OF 2002

Mrs. Veena Deepak Kelkar ...Petitioner.

V/s

The State of Maharashtra
and Ors. ....Respondents.

Mr. N.V. Bandiwadekar for the petitioner.
Mr. S.R. Nargolkar, AGP for respondent Nos. 1 to 3.
Mr. M.M. Sathaye for respondent Nos. 4 and 5.

CORAM: V.G. PALSHIKAR &

V.M. KANADE, JJ.

DATE : 13th June, 2006

P.C.:

1. By this petition, petitioner is challenging the order dated 15/3/2001 passed by the Education Officer (Secondary), Zilla Parishad, Nashik. It is contended by the petitioner in the petition that while passing this order which works adversely to the petitioner's interest, the petitioner was never given any hearing. Respondent Nos. 4 and 5 which is the Management contends that hearing was liable to be given by the Education Officer and not by the Management.

2. The learned Counsel appearing on behalf of the petitioner pointed out the earlier order passed by the Education Officer in favour of the petitioner which, according to the petitioner, was passed after hearing all concerned. It cannot, therefore, be disputed that when the authority is making an order which is penal in nature, observation of the principles of natural justice is a judicial necessity. It is established on record that no such hearing was given when the impugned order was passed. In our opinion, therefore, the impugned order cannot be sustained and is liable to be set aside. It is accordingly set aside.

3. The Education Officer (Secondary), Zilla Parishad, Nashik to hear all concerned including the petitioner afresh. We permit the petitioner to make a fresh representation making grievance of difference of pay. On such representation being made, the petitioner and all concerned parties including respondent Nos. 4 and 5 which is the Management should be given an adequate opportunity of putting forward their case and thereafter the matter should be decided in accordance with law. This be done as far as possible within six months.

4. All contentions raised in this petition shall remain open for all parties concerned.

5. Petition is accordingly disposed of.

(V.G.PALSHIKAR, J.)

(V.M. KANADE, J.)